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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND  
TERMINOLOGY SECTION, RULES  
OF THE COMMISSION ON JUDICIAL  
CONDUCT

Supreme Court No. R-17-0047

PETITIONER'S REPLY TO FIRST  
COMMENT OF THE ARIZONA  
COMMISSION ON JUDICIAL  
CONDUCT

Pursuant to Rule 28(D), Rules of the Supreme Court, Advay Mengle ("Petitioner") respectfully submits this reply to the May 8, 2018 comment of the Arizona Commission on Judicial Conduct ("Commission"). All references to Rules, below, are to the Rules of the Commission on Judicial Conduct. Petitioner thanks the Commission for its comment and addresses its points below.

**I. DISCUSSION**

**1. Exhibits and attachments to all documents should be included in the record**

Petitioner is not an attorney. As a lay person, Petitioner believes that while the Commission's proposed language ("Commission Proposal") defining the "record" is clearer than Petitioner's originally proposed amendment in including exhibits and attachments to

1 the complaint and the judge's response, the Commission Proposal appears to exclude  
2 exhibits and attachments to other documents like the commission's findings and the final  
3 dispositional order. Petitioner does not know whether or not the latter documents can ever  
4 have exhibits or attachments in informal judicial conduct proceedings. If such exhibits or  
5 attachments do exist, Petitioner believes they, too, should be open to the public, and  
6 therefore part of the record.  
7

## 8 **2. Dismissals should be as transparent as cases involving informal sanctions**

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10 While the Commission may have discarded exhibits and attachments in dismissals in  
11 the past, the intent of the proposed amendment is indeed to cover both dismissals and cases  
12 with informal sanctions.  
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## 14 **3. Amendment should not apply to historic cases**

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16 While the Petitioner would prefer that historic exhibits and attachments be opened to  
17 the public, since the Commission, complainant, and judges in past cases may have operated  
18 under the assumption that their exhibits and attachments would not be made public,  
19 Petitioner does not request that this Court make the amendment retroactively effective.  
20

## 21 **II. REVISED PROPOSED RULE AMENDMENT**

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23 Petitioner suggests this revised amendment<sup>1</sup> to the definition of "record" in the  
24 Terminology section of the Rules, to clarify that all attachments and exhibits are part of the  
25 record.  
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27 "Record" means the complaint, the judge's response, the  
28 commission's findings, if any and the final dispositional order

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29 <sup>1</sup> Comparison is made with respect to the version of the Rules with amendments received  
30 through November 1, 2017, as retrieved on May 8, 2018 from  
31 <https://govt.westlaw.com/azrules/Document/N4B56B260717B11DAA16E8D4AC7636430>

(including all attachments and exhibits, if any, to each of the foregoing documents) in a case involving informal proceedings, and all documents filed with the commission in a case involving formal proceedings beginning with the notice and statement of formal charges, including the digital recording of the hearing if recommendations are filed with the supreme court.

RESPECTFULLY SUBMITTED this 8th day of May, 2018.

By: s/Advay Mengle/  
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